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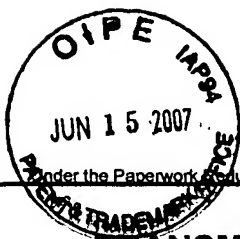
Attorney Docket No.: HAM-PAUS0001
Today's Date: June 15, 2007
Attorney: Kevin A. Wolff
Fee Transmitted Herewith: \$0.00
Serial No.: 10/517,396
Filing Date: November 28, 2004
Title: METHOD AND APPARATUS FOR FORMING BORED HOLE
Inventors: Theodore Roy Dimitroff

VIA Hand Delivery

USPTO DATE STAMP HEREON ACKNOWLEDGES RECEIPT OF:

DOCUMENTS BEING FILED:

- (1) Transmittal Form
- (2) Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action
- (3) Copies of 2 Executed Power of Attorney forms recently filed
- (4) Copy of PAIR Image File Wrapper Available Documents listing for US Patent Application No. 10/517,396 dated 6/7/2007 (2 pages)
- (5) Copy of PAIR information showing the United States Postal Service Return to Sender label and USPTO Received Stamp dated October 23, 2006



PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

11

Application Number

10/517,396

Filing Date

11/28/2004

First Named Inventor

Theodore Roy Dimitroff

Art Unit

3672

Examiner Name

Nicole A. Coy

Attorney Docket Number

HAM-PAUS0001

ENCLOSURES

(Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Filing Record
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	2 Powers of Attorney Forms
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	Copy of PAIR Image File Wrapper Available
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	Documents listing dated 6/7/07
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		Copy Indicating Undeliverable Mail
Remarks		
PLEASE NOTE THE RECENT CHANGE OF CORRESPONDENCE ADDRESS to the address for the Customer No. 000058937		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Wolff Law Offices, PLLC, P.O. Box 9855, Chapel Hill, NC 27515-9855		
Signature	/Kevin Alan Wolff/ <i>Kevin Wolff</i>		
Printed name	Kevin Alan Wolff		
Date	06/15/07	Reg. No.	42,233

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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	/Kevin Alan Wolff/ <i>Kevin Wolff</i>		
Typed or printed name	Kevin Alan Wolff	Date	6/15/07

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION OF

Theodore Roy Dimitroff

Group Art Unit: 3672

Appln. No.: 10/517,396

Examiner: Nicole A. Coy

Filed: November 28, 2004

Confirmation No.: 5576

Title: METHOD AND DUAL REAMER
APPARATUS FOR FORMING BORED
HOLE

Attorney Dkt No.: HAM-PAUS0001

Date: June 15, 2007

* * * * *

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION

Mail Stop Petitions

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This response is respectfully submitted in reply to the Notice of Abandonment included in the Office Action mailed May 29, 2007. Withdrawal of this Notice of Abandonment is respectfully requested.

Unfortunately, the earlier issued Office Action mailing, date mailed October 12, 2006, was never received by attorney Kenneth R. Schaefer or the Applicant prior to the Notice of Abandonment, as evidenced by the USPTO Transaction History record as found in the Public PAIR system. Recently our firm was contacted to take over the prosecution of this patent

application due in part to the inability of Mr. Kenneth R. Schaefer to act on this case. Accordingly, on June 12, 2007 two Power of Attorney forms were submitted via facsimile (copies attached hereto). Therefore, we respectfully request that the case be withdrawn from abandonment without fee and the Office Action mail dated October 12, 2006 be re-dated and mailed to our law firm, Wolff Law Offices, PLLC, at the address of record for customer number 58937 for our future prosecution.

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office Action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and re-mail the Office action. The reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

In accordance with 711.03(c)(I)(A) of the MPEP, the showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner. That statement is provided above and as follows. In response to the May 29, 2007, Notice of Abandonment, and in accordance with 711.03(c)(I)(A) of the MPEP, the undersigned attests that the non-received Office communication, dated October 12, 2006, was not received by the attorney of record, Kenneth Schaefer, or the Applicant, and the USPTO records clearly indicates that the Office communication could not have been, and was not, received by either.

Further, Applicant submits herewith evidence from the USPTO records in Public PAIR that the Office Action dated mailed on October 12, 2006 was never received by the Attorney of record, Kenneth R. Schaefer, or the Applicant, and therefore neither the attorney of record nor the Applicant had notice of the pending Office Action dated mailed on October 12, 2006. Attached hereto is a printout of the Image File Wrapper Available Documents list from the USPTO Public Pair system for Patent Application Serial No. 10/517,396. According to the Available Documents list, the Non-Final Rejection Office Action mailed on October 12, 2006 was returned to the USPTO as undelivered to the USPTO Mail Room on October 23, 2006. The complete document was 13 pages. A viewing of the complete document received by the USPTO Mail Room on October 23, 2006 shows clearly that the Office Action dated mailed from the USPTO on October 12, 2006 was returned to the USPTO on October 23, 2006 for the reason that a Request to Forward Mail filed with the United States Postal Service by Mr. Schaefer had expired. As such, the United States Postal Service returned the Office Action to the USPTO on October 23, 2006. This is evidenced by the last page of the 13 page document scanned into the Image File Wrapper, a copy of which is attached hereto. As a result, no Response to the Office Action was ever prepared and sent to the USPTO because the Office Action was never delivered to the Attorney of record or the Applicant.

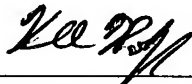
In a June 13, 2006 telephone conversation, the Examiner, Nicole Coy, confirmed that this information in the USPTO Image File Wrapper as provided in PAIR was correct and that the Office Action mail dated October 10, 2006 was received back by the USPTO on October 23, 2006, and never mailed again to the Attorney or Applicant before the Notice of Abandonment was mailed out by the USPTO on May 25, 2007.

In a further June 13, 2006 telephone conversation with USPTO representative in the Office of Petitions, April Weiss, the undersigned was instructed to file this Petition To Withdraw Holding of Abandonment without a fee, explain the circumstances, and the Office Action mail dated October 10, 2006 would be re-mailed with a new due date.

The undersigned respectfully thanks the Examiner and USPTO representative April Weiss for their assistance in clearing up this matter. The undersigned, respectfully request that the Notice of Abandonment mail dated May 29, 2007 be withdrawn and the Office Action mail dated October 12, 2006 be re-dated and mailed out to the undersigned with a new due date so that a Response may be prepared and filed in due course.

Having complied with the aforementioned requirements, Applicant respectfully requests the Examiner to withdraw her holding of abandonment and to **re-date and re-mail the Office Action dated October 12, 2006 to the undersigned at the address of record for customer number 58937**. Further, if for any reason the Examiner or Office of Petitions believes that the Notice of Abandonment can not be withdrawn based on the present Petition, the Examiner and Office of Petitions are requested to contact the undersigned ASAP at the telephone number listed below, or on my mobile telephone at 703-731-7220, to discuss any issues that might be of concern.

Respectfully submitted,



Kevin Alan Wolff
Reg. No. 42,233

Wolff Law Offices, PLLC
P.O. Box 9855
Chapel Hill, NC 27515-9855
Tel. No. (919) 933-9684
Fax No. (919) 933-9685
Date: June 15, 2007



PTO/SB/81 (01-06)

Approved for use through 12/31/2008. OMB 0651-0035

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Application Number	10/517,396
Filing Date	11/28/2004
First Named Inventor	Theodore Roy Dimitroff
Title	Method and Apparatus for Forming ..
Art Unit	3672
Examiner Name	Nicole Coy
Attorney Docket Number	HAM-PAUS0001

I hereby revoke all previous powers of attorney given in the above-identified application.

I hereby appoint:

☒ Practitioners associated with the Customer Number:

58937

OR

☐ Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

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I am the:

☒ Applicant/Inventor,☐ Assignee of record of the entire interest. See 37 CFR 3.71.

Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature		Date	6-11-07
Name	Theodore Roy Dimitroff	Telephone	573-449-6186
Title and Company			

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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CORRESPONDENCE ADDRESS
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Application Number	10/517,396
Filing Date	11/28/2004
First Named Inventor	Theodore Roy Dimitroff
Title	Method and Apparatus for Forming ..
Art Unit	3672
Examiner Name	Nicole Coy
Attorney Docket Number	HAM-PAUS0001

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I am the:

☐ Applicant/Inventor.☒ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature	<i>Dr. Herbert Kunz</i>	Date	11.6.2008
Name	Dr Herbert Kunz	Telephone	+49 89 207 02 8300
Title and Company	Patent Attorney with Signatory Authority, for Lattice Intellectual Property Ltd		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

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10/517,396

Method and apparatus for forming bored hole

P

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10-12-2006	Search information including classification, databases and other search related notes	2	<input type="checkbox"/>	<input type="checkbox"/>	
10-12-2006	Notice of Formal Drawings Required	1	<input type="checkbox"/>	<input type="checkbox"/>	
10-12-2006	Non-Final Rejection	9	<input type="checkbox"/>	<input type="checkbox"/>	
10-12-2006	List of references cited by examiner	1	<input type="checkbox"/>	<input type="checkbox"/>	
10-12-2006	Index of Claims	2	<input type="checkbox"/>	<input type="checkbox"/>	
10-12-2006	Bibliographic Data Sheet	1	<input type="checkbox"/>	<input type="checkbox"/>	
10-04-2006	Examiner's search strategy and results	2	<input type="checkbox"/>	<input type="checkbox"/>	
02-24-2006	Notice of DO/EO Acceptance Mailed	2	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Transmittal of New Application	3	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Specification	7	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Preliminary Amendment	1	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Oath or Declaration filed	3	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Miscellaneous Internal Document	1	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Fee Worksheet (PTO-06)	1	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Drawings	4	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Documents submitted with 371 Applications	19	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Documents submitted with 371 Applications	12	<input type="checkbox"/>	<input type="checkbox"/>	
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11-29-2004	Claims	4	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Claims	6	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Certified Copy of Foreign Priority Application	19	<input type="checkbox"/>	<input type="checkbox"/>	
11-29-2004	Applicant Arguments/Remarks Made in an Amendment	1	<input type="checkbox"/>	<input type="checkbox"/>	

11-29-2004	Abstract	1	<input type="checkbox"/>
11-28-2004	Miscellaneous Internal Document	1	<input type="checkbox"/>
11-28-2004	Fee Worksheet (PTO-06)	1	<input type="checkbox"/>
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